

EXHIBIT 1

INTRODUCTION

Respondent Anybody But Hamilton (the “Committee”) was a recipient committee formed to produce and distribute a mass mailing that opposed the candidacy of Jane Hamilton in a 1998 election for the Sonoma County Board of Supervisors. Respondent Committee received \$5,320.09 in contributions and made \$4,684.07 in expenditures. Respondent Monica Romeyn was the treasurer of Respondent Committee.

As a recipient committee and the treasurer of that committee, Respondents are required to comply with the campaign disclosure filing requirements of the Political Reform Act (the “Act”).¹ In this matter, Respondents failed to timely file a statement of organization, a second pre-election campaign statement, and a late independent expenditure report, in violation of the campaign disclosure provisions of the Act.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents Anybody But Hamilton and Monica Romeyn failed to file a statement of organization by May 10, 1998, in violation of Government Code section 84101, subdivision (a).

COUNT 2: Respondents Anybody But Hamilton and Monica Romeyn failed to file a second pre-election statement for the reporting period March 18, 1998, through May 16, 1998, by the May 21, 1998 due date, in violation of Government Code section 84200.5, subdivision (a).

COUNT 3: Respondents Anybody But Hamilton and Monica Romeyn failed to disclose a \$4,683.97 late independent expenditure, in a properly filed late independent expenditure report, by the May 30, 1998 due date, in violation of Government Code section 84204, subdivision (a).

SUMMARY OF THE LAW

An expressed purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed and improper practices may be inhibited. To that end, the

¹ The Political Reform Act is contained in Government Code sections 81000 through 91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

One feature of the system, found at Section 84101, subdivision (a), is that once a campaign committee qualifies as a “committee,” as set forth in Section 82013, subdivision (a), it must file a statement of organization within 10 days. Section 82013, subdivision (a) includes within the definition of “committee” any person or combination of persons who receives contributions of \$1,000 or more during a calendar year. This type of committee is commonly referred to as a “recipient committee.” As such, a recipient committee must file a statement of organization within 10 days after it receives any contribution that brings the total amount of the contributions that it has received to \$1,000 or more. Under Regulation 18421.1, subdivision (c), a committee “receives” a monetary contribution on the date that the committee, or the committee’s agent, obtains possession or control of the check or other negotiable instrument by which the contribution is made.

Section 84101, subdivision (a) requires all recipient committees to file the original of the committee’s statement of organization with the office of the Secretary of State and to file a copy of the statement of organization with the local filing officer. Section 84102, subdivision (a) requires all recipient committees to include the name, street address, and telephone number of the committee on the statement of organization, and subdivision (c) requires the name, street address, and telephone number of the committee’s secretary be included on the statement of organization.

Section 84200.5 requires committees to file two pre-election campaign statements, disclosing contributions received and expenditures made, before an election. Section 84200.7, subdivision (a) sets forth the pre-election filing schedule for June elections held in even-numbered years. According to this schedule, the first pre-election campaign statement, for the reporting period ending on March 17, must be filed by March 22. The second pre-election campaign statement, for the reporting period ending 17 days before the election, must be filed no later than 12 days before the election. Section 84215, subdivision (a) requires every recipient committee to file its campaign statements with the clerk of the county in which the committee is domiciled.

Section 82031 defines an “independent expenditure” as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to, or at the behest of, the affected candidate or committee.

Under Section 82036.5, a committee that makes an independent expenditure of one thousand dollars (\$1,000) or more to support or oppose a single candidate or ballot measure during the 16 days immediately prior to the election in which the candidate or ballot measure is being voted on, has made a late independent expenditure. Section 84204, subdivision (a) provides that a committee making a late independent expenditure must file a late independent expenditure report, disclosing the late independent expenditure, within 24 hours of making the expenditure.

Section 84204, subdivision (b) requires that the late independent expenditure report provide the

committee's full name and street address, as well as the name, office and district of the candidate the report is related to. The report must also provide, under Section 84204, subdivision (b), the amount and date of the late independent expenditure, as well as a description of the goods or services for which the late independent expenditure was made. Section 84204, subdivision (c) provides that the late independent expenditure report be filed in the same places where the committee would be required to file campaign statements if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

As provided in Section 84100, every committee shall have a treasurer. Under Section 84000 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Section 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

SUMMARY OF THE FACTS

Respondent Anybody But Hamilton was a recipient committee formed for the purpose of opposing Petaluma City Council Member Jane Hamilton in her June 1998 election campaign for a seat on the Sonoma County Board of Supervisors. Respondent Monica Romeyn was the treasurer for Respondent Anybody But Hamilton.

The only activities of Respondent Committee were to collect contributions and use them to produce and distribute a mass mailing attacking Hamilton in her candidacy.

COUNT 1

Failure to File a Statement of Organization

On April 30, 1998, Respondent Committee legally qualified as a recipient committee under Section 82013, subdivision (a), when it received over \$1,000 in contributions. Respondents were thereby required, under Section 84101, subdivision (a), to file a statement of organization, on behalf of Respondent Committee, by May 10, 1998, ten days after qualification occurred. Respondents failed to file a statement of organization by the May 10, 1998 due date, in violation of Section 84101, subdivision (a).

Respondents subsequently attempted to file a statement of organization on behalf of Respondent Committee eighteen days late, on May 28, 1998. The statement did not state the full name of Respondent Committee, but merely identified Respondent Committee by its initials "ABH." After the office of the Sonoma County Clerk advised Respondents that the statement needed to be corrected to identify the full name of the Committee, Respondents filed an amended statement of organization, on June 2, 1998, the day of the Board of Supervisors election, listing "Anybody But Hamilton," as the name of the Committee.

COUNT 2
Failure to File a Second Pre-election Campaign Statement

On April 30, 1998, after the close of the first pre-election reporting period but before the close of the second pre-election reporting period, Respondent Committee legally qualified as a recipient committee under Section 82013, subdivision (a), when it received over \$1,000 in contributions. As a committee primarily formed to oppose a candidate in the June election, Respondents were thereby required, under Section 84200.5, subdivision (b), to file a second pre-election campaign statement by May 21, 1998. Respondents failed to file a second pre-election campaign statement by the May 21, 1998 due date, in violation of Section 84200.5, subdivision (a).

On June 23, 1998, Respondents filed a semi-annual campaign statement for the period ending June 30, 1998, that reported all of Respondent Committee's campaign activity, including the three thousand one hundred sixty eight dollars (\$3,168) in contributions received by May 16, 1998, that were required to be reported in the second pre-election statement. However, Respondents never filed the second pre-election campaign statement.

COUNT 3
Failure to File Late Independent Expenditure Reports

On May 29, 1998, Respondents made a "late independent expenditure," as defined in Section 82036.5, to produce and send a mass mailing opposing the candidacy of Jane Hamilton in the Sonoma County Board of Supervisors election. Pursuant to Section 84204, subdivision (a), Respondents were therefore required to file a late independent expenditure report disclosing the expenditure, within 24 hours of the time the expenditure was made. Respondents failed to timely file the late independent expenditure report as required, in violation of Section 84204, subdivision (a).

On June 30, 1998, the Office of the Sonoma County Clerk sent Respondents a letter stating that a review of Respondent Committee's campaign disclosure statement indicated that Respondents had been required to file a late independent expenditure report, and that the late independent expenditure report was due by May 30, 1998. Respondents subsequently filed the late independent expenditure report on behalf of Respondent Committee on July 14, 1998.

CONCLUSION

This matter consists of three counts of violating the Act, which carry a maximum administrative penalty of Two Thousand Dollars (\$2,000) per count for a total of Six Thousand Dollars (\$6,000).

Regarding Count 1, recent typical stipulated administrative penalties for failing to timely file a statement of organization have ranged from \$1,250 to \$1,750. Respondents' actions regarding this violation do not appear to be especially aggravated or mitigated. Therefore, an administrative penalty in

the mid-range is appropriate.

Regarding Count 2, involving the failure to timely file a second pre-election campaign statement, the typical stipulated administrative penalty has historically ranged from \$1,500 to \$2,000 per statement. This violation appears to be aggravated, as it deprived voters of any information about Respondents' activities prior to an election. Therefore, an administrative penalty at the higher end of the range is appropriate.

Regarding Count 3, typical stipulated administrative penalties for failing to timely file a late independent expenditure report have ranged from \$1,000 to \$2000. Respondents' actions regarding this violation appear to be aggravated since the expenditures that were required to be disclosed in the late independent expenditure report comprised the entire amount expended by Respondent Committee during the campaign. Therefore, an administrative penalty at the higher end of the range is also appropriate.

The facts of this case justify imposition of the agreed upon penalty of Five Thousand Five Hundred Dollars (\$5,500).